THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.26608 of 1997

Dated:17.04.2007

Between
Vanga Shankar

.....Petitioner

and

1.The Singareni Colleries Co., Ltd,
rep., by its Director (Personnel)
Kothagudem, Khammam
And others.

...Respondent

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.26608 of 1997

ORDER:

This writ petition is filed seeking a Mandamus to declare the impugned office order No.P.10/4201/IR/1866 dated 4.9.97 issued by the 1st respondent as arbitrary and illegal and to direct the 1st respondent not to revert the petitioner from the post of Mining Sardar, Grade-B.

It appears that the petitioner was working as Mining Sardar, Grade-B in the respondent-Company. While so, on 4.4.1997, at 11 a.m., when he was in the first shift, on receiving information that there was side fall accident at 23 Dip Slice in 52 LN/4 Dip, he rushed to the spot and shifted the injured-Chapidi Bondyalu to the hospital.

Subsequently, the said injured died on 16.4.97. In this regard, charge memo dated 10.4.1997 was issued to the petitioner, for which he submitted his explanation on 20.4.97 and an enquiry was conducted. The Enquiry Officer submitted his report on 19.5.97. Thereafter, a second show cause notice dated 11.6.1997 was also issued to the petitioner, who, in turn, submitted his explanation on 23.06.1997. Thereafter, the impugned order dated 4.9.97 was passed. Aggrieved by the same, the present writ petition is filed.

It is the contention of the learned counsel for the petitioner that on 4.6.76, the 2nd respondent-Superintendent of Mines imposed the punishment of withdrawing the authorization of the petitioner to work as Mining Sardar/Shot Firer for one month ie., from 5.6.97 to 4.7.97 and the petitioner was also denied the under ground and charge allowances and was instructed to work in general shift from 5.6.97 onwards. The

petitioner followed the same. Thereafter, an enquiry was initiated as referred to above and final orders were passed reverting the petitioner from Mining Sardar, Grade B to Grade C, which amounts to double jeopardy.

It is the contention of the learned counsel for the respondents that insofar as order dated 4.6.97 passed by the 2nd respondent, it is only a temporary measure of withdrawing the authorization held by the petitioner under Coal Mining Regulations, 1957 and hence, it cannot be termed as punishment. Once the authorization is withdrawn, denial of under ground and charge allowances is automatic. Therefore, the order dated 4.6.97 cannot be treated as a punishment or in any way related to the impugned order. He further contended that after conducting a detailed enquiry, the petitioner was reverted from Grade B to Grade C on the basis of the report of the enquiry officer, dated 19.05.1997. Therefore, no illegality has been committed by the

respondents calling for interference of this Court.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the material available on record.

At the out set, it is to be seen that the order dated 4.6.97 is nothing but withdrawal of authorization of the petitioner for a period of one month. When the authorization is withdrawn, the denial of under ground and charge allowances is automatic and therefore, it cannot be said that the order passed on 4.6.97 is double jeopardy. However, coming to the impugned order, I am of the opinion that the appreciation of evidence recorded by the Enquiry Officer is not reflected in the impugned order. The impugned order simply depicts that the report of the Enquiry Officer and all other connected papers have been carefully considered, and the Disciplinary Authority concurred with the findings of the Enquiry

Officer holding that the petitioner is guilty of the misconduct under Standing Order Nos.25.16 and 25.5 of the Company. The charges levelled against the petitioner are proved and as they are grave and serious, the punishment warranted is that of dismissal. However, a lenient was taken and to give an opportunity to improve himself, the petitioner was imposed with a lesser punishment of reversion from Grade B to Grade C.

In the impugned order, the particulars as to what exactly is the evidence led before the Enquiry Officer, how the charges framed against the petitioner are proved and how the evidence was re-considered by the Disciplinary Authority are not at all available. This itself shows that the Disciplinary Authority has not applied its mind while passing the impugned order reverting the petitioner from Grade B to Grade C. The Disciplinary Authority passed the impugned order in a mechanical way without any reference as to the evidence recorded by

the Enquiry Officer and under what circumstances the petitioner was held to be guilty of the charges.

Under those circumstances, I am of the opinion that the impugned order is bereft of details and reasons requiring to hold the petitioner guilty of the charges and apart from that, it is not in accordance with the procedure as required under law and therefore, the same is liable to be set aside.

Accordingly, the Writ petition is allowed and the impugned order is set aside. No costs.

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17-04-2007

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